



ARIZONA DEPARTMENT OF REVENUE

MEMORANDUM

DATE: February 14, 2013
TO: Distribution
FROM: Vince Perez, Deputy Director
SUBJECT: Minimum Simplification Requirements under Proposed Federal Legislation (Marketplace Fairness Act of 2013)

Purpose: The purpose of the Federal legislation is to restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

Grant of Authority: Provides for a state to require payment or collection of its taxes by all sellers for remote sales sourced to the state if the state does so in accordance with the provisions of the SSUTA or a non-member state if the state enacts the minimum simplifications specified in the Federal legislation.

At the present time Arizona does not meet any of the requirements of the Marketplace Fairness Act of 2013.

Changes required in Arizona to satisfy Federal Marketplace Fairness Act minimum simplification requirements:

- Arizona must have single entity within the state responsible for all state and local tax administration, including return processing and auditing.
- Arizona must have a single audit of remote sellers for state and local taxing jurisdictions within the state.
- Arizona must have a single return for reporting state and local taxes to the single entity responsible for tax administration.
- No local jurisdiction may require a remote seller to submit sales and use tax return or to remit sales and use taxes other than to the single entity responsible for tax administration.
- Arizona must have a uniform base among all jurisdictions in the state.
- Arizona must source interstate sales on a destination basis. The location to which a remote sale is sourced refers to the location where the item sold is received by the purchaser, based on the location indicated by instructions for delivery that the purchaser furnishes to the seller. When no delivery location is specified, the remote sale is sourced

to the customer's address that is either known to the seller or, if not known, obtained by the seller during the consummation of the transaction, including the address of the customer's payment instrument if no other address is available. If an address is unknown and a billing address cannot be obtained, the remote sale is sourced to the address of the seller from which the remote sale was made.

- Arizona must provide information indicating the taxability of products and services along with any product and service exemptions from the transaction privilege and use tax in the State and a rates and boundary database.
- Arizona must provide free of charge software for remote sellers that calculates sales and use taxes due on each transaction at the time the transaction is completed, that files sales and use tax returns and that is updated to reflect rate changes.
- Arizona must relieve remote sellers from liability to the State or locality for the incorrect remittance of tax, including penalties and interest, if the liability is the result of an error or omission made by a certified software provider.
- Arizona must relieve certified software providers from liability to the State and locality for the incorrect remittance of tax, including penalties and interest, if the liability is the result of misleading or inaccurate information provided by the seller.
- Arizona must relieve remote sellers and certified software providers from liability to the State and locality for incorrect remittance of tax, including penalties and interest, if the liability is the result of incorrect information or software provided by the State.
- Arizona must provide 90 days notice of any rate change at the State or local level. If the 90 day notice period is not provided remote sellers and certified software providers are to be held harmless.

Commencement of Authority:

Authority to require payment of transaction privilege tax will begin the first calendar quarter at least 6 months after the date of the enactment of legislation that meets the minimum requirements above.

Small Seller Exception:

A State is not authorized to require a remote seller to pay or collect sales and use taxes if the remote seller does not have an annual gross annual receipts in total remote sales in the U.S. in the preceding calendar year exceeding \$1,000,000. For purposes of determining if the threshold is met the sales of related entities are aggregated and persons with 1 or more contractual, license or ownership relationship shall be aggregated if such relationships were designed with a principal purpose of avoiding these rules.